IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY EIGHTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 8194 of 1996

Between:

Dhanunjaya, S/o. Kistaiah.,
4-6, Parapala Village, Narayanpet Mandal,
Mahabubnagar.

..... PETITIONER

AND

1 The Regional Transport Officer, Mahabubnagar District,
Mahabubnagar.
2 The Motor Vehicle Inspector,
Mahabubnagar.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ of Certiorari and call for the entire records in Demand Notice R.No.6135/B2/95 dated 20/09/1995 from the file of the Regional Transport Officer Mahabubnagar demanding payment of alleged tax of Rs.8,025/- for the quarter

ending with 30/09/1995 on petitioner's vehicles bearing No.AP-22/A-2974, purporting to be transport vehicle and quash the same as illegal, improper and without jurisdiction and issue any other appropriate Writ, order or direction and grant such other necessary reliefs.

Counsel for the Petitioner:MR.K.MAHIPATHI RAO

Counsel for the Respondents.: GP FOR TRANSPORT

The Court made the following :

O R D E R (Per MHSA,J)

Heard learned counsel for respective parties.

2. Petitioner claims to be the owner of the ombi bus bearing no AP-22/A-2974. It was found plying as a contract carriage on hire by carrying six passengers from Kodur to Mahabubnagar on 2.8.1995. A show cause notice was issued claiming the difference of tax for quarter ending 30.09.1995 for illegal use of the vehicle. A sum of

Rs.8,025/- was demanded towards difference of tax. The explanation submitted was found not satisfactory and the difference of tax as proposed in the show cause notice was confirmed and demand notice dated 20.09.1995 was served on the petitioner. It is this demand notice dated 20.9.1995 that has been questioned in the instant writ petition.

3 . We find from the docket order dated 18.4.1996 in WPMP.NO.10051/1996 that directions were issued for release of the vehicle subject to the condition that petitioner deposits fifty percent of the demanded amount.

4 . It is contended before us that the vehicle has not been used illegally and that the allegations made in the check report are false, which have been mechanically followed in the show cause notice and confirmed in the impugned demand notice.

5. From a perusal of the impugned demand notice dated 20.09.1995 it would appear that the Driver accepted the commission of offence and signed on the check report. In such view of the matter, we are inclined to hold that the order of the respondent – authority that the vehicle in question was used without permit and thus rendered itself liable to payment of difference of tax as demanded, is justified. Accordingly no interference is warranted with the impugned demand notice dated 20.09.1995.

6. Writ petition is accordingly dismissed.

7. However, time is granted by four weeks from date to pay the balance fifty percent of the tax demanded. In default, it shall be open for the respondent – authority to effect recovery in accordance with

law.

8. In the facts and circumstances of the case, there shall be no order as to costs.

M.H.S.ANSARI,J

T.CH.SURYA RAO,J

AVS

DATE:28.01.2005

To

1 The Regional Transport Officer, Mahabubnagar District, at Mahabobnagar.
2 The Motor Vehicle Inspector, Mahabubnagar.

3. Two C.Cs. to G.P. for Transport, High Court of A.P.

Building (out).

4. Two C.D. copies.